

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

JASON GOODMAN

Plaintiff,

vs.

CHRISTOPHER ELLIS BOUZY, BOT
SENTINEL, INC, GEORGE WEBB
SWEIGERT, DAVID GEORGE SWEIGERT,
BENJAMIN WITTES, NINA JANKOWICZ,
ADAM SHARP, MARGARET ESQUENET,
THE ACADEMY OF TELEVISION ARTS
AND SCIENCES, SETH BERLIN,
MAXWELL MISHKIN,

Defendants

Case No.: 1:21-cv-10878-AT-JLC

**MEMORANDUM IN SUPPORT OF
MOTION FOR RECONSIDERATION**

INTRODUCTION

Plaintiff Jason Goodman (“Goodman”) by and for himself pro se, respectfully submits this motion for reconsideration of Judge Torres’ final order (ECF No. 238) pursuant to FRCP Rule 60(b)(1). The Court overlooked irrefutable facts when it adopted Magistrate Judge Cott’s Report and Recommendation (ECF No. 203), clear errors in the Order are explained below.

BACKGROUND

Judge Cott’s analysis parrots Judge Valerie Caproni, miscategorizing this case as an “ongoing battle between Internet conspiracy theorists”. This demeaning condescension is not only unbecoming of a judge, but it is also incorrect. This case is about sophisticated litigants who coordinated an effort to defame and discredit an investigative journalist who has revealed unfavorable facts about them. Their goal is to curtail Goodman’s ability to exercise the first amendment, prevent him from reporting evidence likely to prove Defendants’ criminal acts and

1 to prevent him from earning a living. Goodman is not an attorney and does not initiate lawsuits
2 for improper purposes. Judge Cott's misrepresentation casts Goodman as equally responsible for
3 this ongoing conflict when in fact it was initiated and is perpetuated by David George Sweigert
4 ("Sweigert"). Goodman brought this instant action to defend himself and end ongoing litigation.
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6 Goodman has alleged a conspiracy between defendants, Judge Caproni and now former
7 FBI director James Comey ("Comey"). If Goodman's allegations are true, Judge Caproni would
8 be motivated to label him a "conspiracy theorist" despite the fact that the term has no legal
9 definition and is tantamount to a ruling determining Goodman is a moron. Such statements are
10 inappropriate personal insults that lies outside the scope of adjudication of fact. The Court has
11 agreed with Goodman that Judge Cott does not have a clear understanding of the facts in the
12 case, specifically regarding allegations related to the death of Peter W. Smith ("Smith").
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14 Defendants' alleged conspiracy began in or around 2010 when Judge Caproni was FBI
15 General Counsel and defendant Adam Sharp ("Sharp") was Twitter's U.S. Government Liason.
16 Goodman continues to allege Sweigert acts as a go-between enabling defendants' actions
17 throughout the relevant timeframe and with the protection and approval of Judge Caproni. On
18 July 12, 2023 FBI Director Christopher Wray testified before the House Oversight Committee to
19 answer allegations that the FBI has violated American citizens' first and fourth amendment
20 rights and the law. These are identical to allegations Congress made over a decade ago before
21 Judge Caproni was removed as FBI General Counsel for alleged criminal wrongdoing.
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24 (<https://web.archive.org/web/20100419051249/http://judiciary.house.gov/news/100414.html>)

25 Chairman Jim Jordan opened the hearing by declaring, "*the federal government*
26 *suppressed Americans' First Amendment free speech rights*" and went on to cite a July 4, 2023
27 ruling by U.S. District Court Judge Terry A. Doughty. Unlike Goodman's prior cases, the
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1 presiding judge was not implicated in that case, but defendant Nina Jankowicz (“Jankowicz”)
2 was. Plaintiffs in the case allege claims that echo those brought by Goodman. In his ruling,
3 Judge Doughty found that, *“The Plaintiffs are likely to succeed on the merits on their claim that*
4 *the United States Government, through the White House and numerous federal agencies,*
5 *pressured and encouraged social-media companies to suppress free speech.”*

7 Missouri v. Biden, No. 3:22-CV-01213, 2023 U.S. Dist. LEXIS 114585, at *121 (W.D.
8 La. July 4, 2023).

9 Defendants in this case have used non-profit foundations, private sector companies and
10 private individuals in furtherance of FBI interests to do the same to Goodman using circuitous
11 illegitimate means including vexatious legal action (“Lawfare”). Just as the Government stands
12 accused in Missouri v. Biden, defendants here attempt to prevent Goodman from exercising the
13 first amendment and reporting true but objectionable facts on social media including Twitter,
14 YouTube and others. Judge Doughty’s findings substantially support Goodman’s claims which
15 should not be dismissed as “conspiracy theories” even if they are not cognizable as pleaded.
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18 **FALSE CLAIMS RELATED TO THE DEATH OF PETER W. SMITH**

19 Public statements made by defendant Benjamin Wittes (“Wittes”) regarding the death of
20 Smith are the seminal basis of the dispute in this case. During Goodman’s communication with
21 Wittes about Smith on Twitter in December 2020, Christopher Bouzy (“Bouzy”) injected himself
22 into the public debate. Bouzy chose to put himself in direct conflict with Goodman prompting a
23 phone call that gave rise to the initial complaint. Goodman’s complaint was not frivolous and
24 was not brought to harass. Goodman initially showed restraint, choosing to avoid litigation in
25 December 2020. Bouzy resumed his malicious activity on December 17, 2021, approximately
26 363 days after his initial contact with Goodman. This compelled legal action because Goodman
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1 became concerned that Sweigert may have alerted Bouzy presuming expiration of the statute of
2 limitations and encouraging him to reiterate false allegations against Goodman in perpetuity.

3 Sweigert has now begun to do that on the basis of this Court's errant judgement.

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5 (<https://twitter.com/LiberateYoutube/status/1677389240408367105>)

6 Goodman first became aware of Smith on June 30, 2017, during a meeting with nonparty
7 Charles Ortel ("Ortel") that had been arranged by defendant George Webb Sweigert ("Webb"),
8 notably the brother of defendant Sweigert. At that meeting, Goodman witnessed Ortel receive a
9 call from Wittes' associate Shane Harris ("Harris"). Harris informed Ortel his name was on a
10 document Smith had used to raise money to pay Russian hackers for Hillary Clinton's stolen
11 emails. Ortel had no knowledge of the document nor any hacking involvement.

12
13 Later that same day another Wittes associate, former British Intelligence cyber security
14 expert Matt Tait ("Tait") published an article on Wittes' Lawfare Blog that provided details of
15 the document, (<https://www.lawfaremedia.org/article/time-i-got-recruited-collude-russians>). In
16 his post, Tait claimed the document was given to him by Smith, stating, "*a few weeks into my*
17 *interactions with Smith, he sent me a document, ostensibly a cover page for a dossier of*
18 *opposition research to be compiled by Smith's group, and which purported to clear up who was*
19 *involved. The document was entitled "A Demonstrative Pedagogical Summary to be Developed*
20 *and Released Prior to November 8, 2016," and dated September 7. It detailed a company Smith*
21 *and his colleagues had set up as a vehicle to conduct the research: "KLS Research", set up as a*
22 *Delaware LLC "to avoid campaign reporting," and listing four groups who were involved in one*
23 *way or another."* On October 6, 2017, Tait testified before the House Permanent Select
24 Committee on Intelligence ("HPSCI"). Committee members questioned Tait, corroborating
25 Ortel's name among the four groups as Tait described, "*under this independent groups heading,*
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1 *there's Phil Emmanuel, Charles Ortel, Charles Johnson, individuals associated with Judicial*
 2 *Watch. Did you have contact with any of these individuals?" (See Page 52*
 3 https://intelligence.house.gov/uploadedfiles/matthew_tait_testimony_oct_6_2017.pdf)

4
 5 Ortel was interviewed by the FBI on December 11, 2018 (**EXHIBIT A**) and was
 6 questioned in particular about an email he sent on July 25, 2016, (**EXHIBIT B**) to former Trump
 7 advisor Roger Stone ("Stone"). This was corroborated in United States v Roger Stone (*See Case*
 8 *1:19-cr-00018-ABJ Document 133 Page 7 paragraph 2*) "*Charles Ortel sent an email written to*
 9 *Stone and Stone sent it to Corsi after WikiLeaks disseminated Podesta's emails. The email was*
 10 *titled "WikiLeaks – The Podesta Emails." See Doc. 100 Ex.1, ¶ 65"*

11
 12 United States v. Stone, 613 F. Supp. 3d 1 (D.D.C. 2020).

13 Tait's document was the basis of Wittes December 28, 2016 email to Comey. The Court
 14 incorrectly concluded that this email has nothing to do with this case. Conversely, it is the seed
 15 of the core controversy. Ortel's interview with the FBI is evidence that Comey did indeed act on
 16 Wittes' advice and used Tait's fabricated evidence, provided by Harris, to justify an unwarranted
 17 FBI investigation intended to reach Trump through Ortel and Stone.

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 19 Goodman's claims are anything but frivolous. The underlying facts are irrefutable and
 20 may reveal one of the biggest crimes in history. If Goodman's allegations are true, defendants
 21 along with Judge Caproni, conspired with Comey and the FBI to fabricate evidence and create a
 22 false pre-text sufficient to initiate a counterintelligence investigation into the President of the
 23 United States on the basis of no legitimate evidence whatsoever. The late John Conyers
 24 admonished FBI General Counsel Caproni for precisely the same activity in 2010. If Goodman
 25 is correct, this would also explain Judge Caproni's unlawful support of defendants' obsession
 26 with destroying Goodman's reputation, social media presence and ability to earn a living.
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ARGUMENT

Fed. R. Civ. P. 60(b) provides on motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; *Nemaizer v. Baker*, 793 F.2d 58, 59 (2d Cir. 1986)

I. The Court Made a Mistake When it Determined a Failure to Allege Falsity

The Court made a clear error in its review of Goodman's second objection and contradicted itself in its own finding when it said "*Goodman objects to Judge Cott's characterization of Defendant Bouzy's allegedly defamatory statement. Obj. at 6. Specifically, Judge Cott wrote: 'Bouzy stated only that he was aware of allegations that Goodman had raped someone.' Second R&R at 24.*" The Court goes on to say, "*Judge Cott found, and the Court agrees, that Bouzy's statement does not accuse Goodman of rape, but rather states that Goodman told Bouzy that Goodman had been accused of rape. See Second R&R at 24.*"

Goodman did not tell Bouzy that he had been accused of rape. Goodman told Bouzy the opposite, stating "*go try to find somebody who claims I raped them. You will not find that.*" Any other conclusion drawn was, by the Court's own admission, inferred by the listener, not told by Goodman. "*Throughout the call, Goodman himself **implies** [emphasis added] that people made rape allegations against him.*" The Court cannot reasonably equate an inferred implication with the positive affirmation of unequivocally telling someone something. Bouzy states, "*Until creepy Jason Goodman called me, I had no clue someone previously accused him of rape, and it's a bizarre thing to **tell** [emphasis added] a stranger in a phone call. It's also odd to tell someone they would be part of ongoing litigation if they tweeted about it. Why bring it up? ...*"

1 By using the word “tell” Bouzy falsely asserts Goodman conclusively affirmed there was
2 a rape allegation when in fact he told Bouzy the opposite, that he would find no rape allegation.
3 Bouzy did not Tweet that Goodman implied or inferred there was a rape allegation. By ending
4 with, “*Why bring it up?*” he further misleads the reader because Goodman did not bring it up,
5 Bouzy did. This is at least defamatory by implication and would be likely to cause a reasonable
6 observer to think Goodman told Bouzy he had definitely been accused of rape. Bouzy made
7 inferences and drew false conclusions from implications as the Court acknowledged. The only
8 unambiguous information relative to rape allegations was Goodman’s statement “*You will not*
9 *find that*”. Without verifying his inference, Bouzy published statements to third parties with
10 reckless disregard for the truth and the deliberate intent to harm Goodman amounting to actual
11 malice. Bouzy admitted to the Court Webb was unknown to him. Even if Goodman implied as
12 the Court believes, Bouzy did not verify the implication. Judge Cott was in error when he
13 concluded that Bouzy “*was aware of allegations that Goodman had raped someone.*”
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16 The Court should separately consider Webb’s original statements that were unknown to
17 Bouzy at the time he falsely claimed Goodman told him of their existence. To consider Webb’s
18 manufactured and since deleted statements as rape allegations is tenuous at best. The concocted
19 claim pertained to an imagined rape of a person Goodman never met, who herself never made
20 the accusation. This begs the philosophical question, what makes an allegation an allegation? Is
21 Webb’s false claim of an allegation that never actually existed, truly an allegation if the alleged
22 victim never made it and is not aware of it? Webb’s statement is more akin to a hoax-allegation
23 which is inherently fake and non-existent. This calls Bouzy’s alleged awareness of existing
24 allegations into further question. Bouzy made no effort to confirm the truthfulness of his
25 inferred conclusion. His motivation was purely evil and had no useful purpose apart from
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1 damaging Goodman. Bouzy's statements are so repugnant, they rise to the level of per se
2 defamation. The Court's deference to and defense of such disgraceful behavior is antithetical to
3 the service of justice. Even if the Court finds Goodman's claims inadequate to survive motions
4 to dismiss, the Court should modify its order to dismiss the claims without prejudice.

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6 **II. The Court Made an Additional Error When it Concluded Wittes Email to**
7 **Comey Has Nothing to Do with This Case**

8 The email sent to then FBI Director Comey directly links Wittes to a scheme to concoct
9 an unjust and harmful investigation into the 45th President of the United States. In furtherance
10 of that scheme, Wittes deliberately hid facts about Smith's death and these actions gave rise to
11 the conflict with Goodman. The discovery of Wittes email to Comey and the corroboration in
12 Harris' phone call to Ortel, Tait's article in www.lawfareblog.com and his testimony before the
13 HSCI, proves that Goodman's allegations relative to hiding facts about Smith's death are true.
14 While it is true that the email evidence was in the public domain since 2020, Goodman was not
15 aware of this prior to June 12, 2023. The Court cannot reasonably expect Goodman to be aware
16 of all information in the public domain or any particular piece of information simply because it is
17 in the public domain. Goodman found this email on a U.S. Senate web site after reading the
18 report published by the U.S. Attorney General on June 12, 2023. Information in the report that
19 Goodman was previously unaware of prompted a series of internet searches that led Goodman to
20 the December 28, 2016 email. There was no way Goodman could have reasonably known of the
21 Wittes – Comey email's existence merely as a function of it being in the vast public domain.

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24 **III. Abuse of Process**

25 Just as Judge Cott wrongly concluded Goodman accused Wittes of murder, he also
26 incorrectly determined that Goodman *"has not provided any details as to how, where, or when*
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1 *Sweigert harassed his former counsel.*” Goodman cited attorney Jonathan Snyder’s withdrawal
 2 motion and declaration which provided all the details of Sweigert’s harassment (*See* Case 1:20-
 3 cv-07269-VEC-OTW Document 101). It is impossible to construe Judge Cott’s conclusion as
 4 anything more than deliberate ignorance of the facts in favor of Judge Caproni’s totally unjust
 5 rulings and defendants’ vexatious behavior.

7 **IV. Filing Injunction**

8 Judge Cott recommended, and the Court confirmed a filing injunction citing, “[T]he
 9 *Second Circuit has held that ‘[t]he issuance of a filing injunction is appropriate when a plaintiff*
 10 *abuses the process of the Courts to harass and annoy others with meritless, frivolous, vexatious*
 11 *or repetitive proceedings.’” Ware v. United States, No. 04-CR-1224 (ER), 2023 WL 2757206, at*
 12 **5 (S.D.N.Y. Apr. 3, 2023) (citing Lau v. Meddaugh, 229 F.3d 121, 123 (2d Cir. 2000)).*” This is
 13 yet another error because this is not meritless, frivolous, vexatious. Goodman’s claims are well
 14 founded and denying him proper access the courts is a denial of his fundamental rights and
 15 antithetical to the service of justice in this case.

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 17 Properly applied Rule 60(b) strikes a balance between serving the ends of justice and
 18 preserving the finality of judgments. *House v. Secretary of Health and Human Services*, 688 F.2d
 19 7, 9 (2d Cir. 1982); *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401 (5th Cir. 1981). In other
 20 words, it should be broadly construed to do "substantial justice," see *Seven Elves*, 635 F.2d at
 21 401, yet final judgments should not "be lightly reopened." *Id.*; *Griffin v. Swim-Tech Corp.*, 722
 22 F.2d 677, 680 (11th Cir. 1984). The Rule may not be used as a substitute for a timely appeal.
 23 *United States v. O'Neil*, 709 F.2d 361, 372 (5th Cir. 1983); *Rinieri v. News Syndicate Co.*, 385
 24 F.2d 818, 822 (2d Cir. 1967). Since 60(b) allows extraordinary judicial relief, it is invoked only
 25 upon a showing of exceptional circumstances. *Ben Sager Chemicals Intern. v. E. Targosz & Co.*,
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1 560 F.2d 805, 809 (7th Cir. 1977); [**9] Hoffman v. Celebrezze, 405 F.2d 833, 835 (8th Cir.
2 1969); Rinieri, 385 F.2d at 822. A motion seeking such relief is addressed to the sound discretion
3 of the district court with appellate review limited to determining whether that discretion has
4 [*62] been abused. Griffin, 722 F.2d at 680; Matter of Emergency Beacon Corp., 666 F.2d 754,
5 760 (2d Cir. 1981).
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7 Nemaizer v. Baker, 793 F.2d 58, 61-62 (2d Cir. 1986)

8 CONCLUSION

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10 There is no doubt this case presents exceptional circumstances. Goodman's claims are
11 not frivolous, and even if improperly plead, that is due to Goodman's lack of experience and the
12 complexity of these matters. Goodman's right to access the courts cannot be justifiably
13 infringed. Defendants have a well-established history of staging hoaxes and promoting false
14 allegations intended to entrap others, including those that gave rise to the complaint against
15 Bouzy and Webb. The conclusion that information discovered after June 8, 2023 is unrelated to
16 this case is false. Rulings based on that conclusion are likewise incorrect. Plaintiff respectfully
17 requests the Court reconsider its final judgment given these clear and egregious errors.
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19

20 Signed this 12th day of June 2023

21 Respectfully submitted,



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